

5. Life Time Fitness also produced a corporate representative to be deposed under Federal Rule of Civil Procedure 30(b)(6) and prepared this witness to respond to ten separate topics. Attached hereto as **Exhibit C** is a true and correct copy of Plaintiff's 30(b)(6) notice to Life Time Fitness.

6. Attached hereto as **Exhibit D** is Life Time Fitness's alternative proposed notice to potential opt-in class members, in the event the Court considers ordering such notice.

FURTHER AFFIANT SAYETH NOT

s/Douglas R. Christensen
Douglas R. Christensen

Subscribed and sworn to before me
this 13th day of May, 2013.

s/Suzanne Robbins
Notary Public

1 IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF TEXAS

2 HOUSTON DIVISION

3 PIER NIEDDU, on Behalf)
 of Himself and Others)
 4 Similarly Situated,)

5 Plaintiff,)
)

6 VS.) CIVIL ACTION NO.
) 4:12-CV-02726

7 LIFE TIME FITNESS,)
 INC., LTF CLUB)
 8 MANAGEMENT CO., LLC,)
 and LTF CLUB OPERATIONS)
 9 CO., INC.,)

10 Defendants.)
)

11 *****

12 ORAL DEPOSITION OF

13 PIER NIEDDU

14 MARCH 18, 2013

15 *****

16
 17 ORAL DEPOSITION OF PIER NIEDDU, produced as a witness
 18 at the instance of the DEFENDANTS, and duly sworn, was
 19 taken in the above-styled and numbered cause on MARCH 18,
 20 2013, from 9:45 a.m. to 11:43 a.m., before CYNTHIA E.
 21 DODGE BARNETT, CSR, RPR, in and for the State of Texas,
 22 reported at the offices of Shellist Lazarz Slobin, 11
 23 Greenway Plaza, Suite 1515, Houston, Texas, pursuant to
 24 the Federal Rules of Civil Procedure and the provisions
 25 stated in the record or attached hereto.

1 A I'm not sure --

2 Q Okay.

3 A -- who the signature is.

4 Q Okay. And at the very top of the document, you
5 see it says "Hire Date" and then do you see
6 4-20-2010?

7 A Uh-huh.

8 Q Okay. Might you have been hired as early as
9 April 20th, 2010 by Life Time Fitness?

10 A Yes.

11 Q Okay. Then would you go back to Exhibit No. 2,
12 the interrogatories. I want you to look at your
13 response to interrogatory No. 2. And in
14 interrogatory No. 2, you state that you were
15 employed as a hairstylist from May 20th, 2010
16 through on or about March 18th, 2010 -- excuse
17 me -- 2012, correct?

18 A Correct.

19 Q Okay. And then if you would go back to Exhibit
20 No. 3, the new hire form, yes, and would you
21 look sort of in the middle of the document. Do
22 you see it says under "Job Information," there's
23 a section called "Job Title"?

24 A Yes.

25 Q And it says "stylist-apprentice"?

1 explained how the commission work. And when I
2 look at my paycheck, number was not heads up, so
3 I ask what's explanation for detailing in the
4 paycheck and then I never get an explanation for
5 it, so that's what I'm...

6 Q Who did you ask for an explanation?

7 A The manager Francisco Fuentes.

8 Q Okay. Did you ask anybody else other than
9 Mr. Fuentes?

10 A No.

11 Q And do you have any knowledge what Life Time
12 Fitness might or might not have told other
13 hairstylists about how the commission structure
14 would work?

15 MR. PRIETO: Objection; calls for
16 speculation.

17 Q (By Mr. Christensen) You can answer.

18 A I don't know.

19 Q You don't know?

20 A I -- I don't understand the question. Can you
21 rephrase the question?

22 Q Sure. Do you know -- do you have any knowledge
23 about what Life Time Fitness told other stylists
24 about the commission structure?

25 A I have no knowledge about it.

1 Q Do you know what Life Time Fitness told other
2 stylists about how shop charges would work?

3 MR. PRIETO: Objection; speculation.

4 Q (By Mr. Christensen) You can answer.

5 A I'm not sure.

6 Q You're not sure what Life Time Fitness would
7 have told other stylists?

8 A I don't know. I'm not sure.

9 Q Mr. Nieddu, I just handed you what the court
10 reporter has marked as Exhibit No. 6. Do you
11 recognize this document as the Life Time Fitness
12 Spa Service Provider Compensation form you
13 received when you began your employment with
14 Life Time Fitness?

15 A (Reviewing document.) Yes, I do.

16 Q And is that your signature down at the bottom of
17 the copy?

18 A It is.

19 Q Thank you. Do you know whether other stylist
20 employees also received the same form?

21 A Don't know, sir.

22 Q Okay. The first -- start over. That wasn't
23 going to be a very good question.

24 The first sentence under commissions
25 and pay at the very top of the page says:

1 "Service providers earn commissions at the set
2 commission rate from the gross revenue collected
3 (excluding applicable sales taxes) for the
4 services provided"; is that correct?

5 A Correct.

6 Q Okay. And then it says: "For each pay period,
7 the service provider will be paid at the higher
8 of: Commissions earned during the pay period,
9 or the applicable minimum rate for commissioned
10 employees multiplied by the hours worked in the
11 pay period, also called 'hitting draw'"; is that
12 correct?

13 A That's correct.

14 Q Okay. Did Life Time Fitness provide you with
15 any training or other documents to help you
16 understand what the language in this document
17 meant?

18 A No, sir.

19 Q Did you ever attend Life Time University
20 training?

21 A No, sir.

22 Q Do you know whether other stylists attended Life
23 Time University training?

24 A I don't know.

25 Q Sir, I'm handing you what the court reporter has

1 marked as Exhibit No. 7. Would you let me know
2 when you've had a chance to look at that
3 document?

4 A (Reviewing document.)

5 Q Do you recognize the document marked as Exhibit
6 No. 7?

7 A No, sir.

8 Q You don't ever recall seeing it before?

9 A No, sir.

10 Q Would you turn to Page 1107 of that document?
11 It's about the fourth page in or so.

12 A Page number what?

13 Q 1107. At the top it says "Very Best Places to
14 Work" and "Best in Class Compensation Plans"; do
15 you see that?

16 A Yes, sir.

17 Q Did you receive a document like this set out on
18 Page 1107 or a similar document during your
19 employment with Life Time Fitness?

20 A No, sir, I don't recall.

21 Q Okay. Do you know whether Life Time Fitness
22 would have provided the document that we've
23 marked as Exhibit No. 7 to other stylists?

24 A Don't know.

25 Q Sir, I've just handed you what the court

1 A Don't know.

2 Q That Exhibit B that we were just looking at in
3 Exhibit 8, that document appears to set forth
4 how commissions are going to be paid at
5 different levels of sales; is that fair to say?

6 A That's what it look like say.

7 Q And it looks like it breaks it out separately
8 for service commissions and then for retail
9 commissions; is that correct?

10 A Correct.

11 Q Did you ever receive information like this, the
12 information contained in Exhibit B, at any point
13 during your employment at Life Time Fitness
14 whether it be in a conversation with somebody or
15 through a document?

16 A No, I never receive a document like that.

17 Q And if you look further down toward the middle
18 of the page it suggests that there were two
19 compensation plans and that you fall into one
20 and it sets forth a new talent stylist section
21 and then a stylist section; is that correct?

22 A Yeah.

23 Q And under the stylist section, it suggests that
24 service revenue, less shop charges, times the
25 levels commission schedule, correct?

1 A Correct.

2 Q And then it also suggests that commission on
3 retail products, correct?

4 A Correct.

5 Q Did anyone at Life Time Fitness ever explain
6 that information to you during your employment
7 with Life Time Fitness?

8 A No, sir.

9 Q Do you know whether that information was
10 explained to other stylists?

11 A No, sir.

12 Q You don't know?

13 A I don't know.

14 Q Okay. What is your understanding of how Life
15 Time Fitness' shop charges worked? How did you
16 understand those to work?

17 A I do not understand how they work.

18 Q You don't have any understanding?

19 A I just -- if I get paid commission, why should I
20 pay shop charge? That was one. I don't know
21 why I'm paying commission, why you should pay
22 shop charge basically.

23 Q Could you go back to Exhibit 2, your
24 interrogatory responses, please, and I would
25 like to talk about your response to

1 A Correct, sir.

2 Q Okay. I would like to hand you what the court
3 reporter has marked as Exhibit No. 10. Do you
4 recognize that document, Mr. Nieddu?

5 A No, I don't.

6 Q Okay. That document, though, in about the
7 middle of the page, Exhibit No. 10, actually
8 about a third of the way down, there's a section
9 it says "Last Day of Work" and it says
10 3-15-2012, correct?

11 A I can't find -- oh, okay. Yes, I see.

12 Q And that's consistent with your recollection,
13 correct?

14 A Yes.

15 Q And was Holly Dodson your manager at the time
16 you were terminated?

17 A Yes.

18 Q And then could we go back to Exhibit No. 9, your
19 pay stubs?

20 A Sure.

21 Q If we look at the first page of Exhibit No. 9,
22 just above the special information section there
23 are separate sections for "Pre Tax Deductions"
24 and "Post Tax Deductions," correct?

25 A Yes.

1 A The answer was very, you know, you need to bring
2 your own client, you need to advertising, you
3 need to, you know, go get it, so...

4 Q And what did that have to do with deductions
5 from your paycheck?

6 A The question of the deduction is look at my
7 paycheck, it's not meet my needs. And it said
8 shop charges, this and that, so I can't -- and I
9 want to know why the front desk don't give you
10 clientele or even more when your clientele
11 supposed to be with you, they give to somebody
12 else, privileged people that making more income.
13 Then I ask him what the policy is and he
14 couldn't really say that it goes by seniority or
15 whoever makes more money. So if you're the last
16 person to start, it will be the last person to,
17 you know, to get clientele.

18 Q So did you have some concerns with the way that
19 Mr. Fuentes distributed clientele to the
20 stylists?

21 A Yes.

22 Q And you felt you were treated unfairly in that
23 respect?

24 A Yes.

25 Q Did you speak with any of your other managers

1 at work?

2 A I assume he's got a front desk in charge to see
3 if somebody come in times.

4 Q Would you check in with your supervisor when you
5 arrived for work?

6 A Sometimes yes, sometimes no. It depends. If
7 he's busy doing some things, I can't chase him
8 around, say, hey, I'm here.

9 Q And where was your supervisor during your work
10 shift? Did he or she typically stay in the spa
11 area, or would they come into the salon area
12 sometimes?

13 A In and out.

14 Q In and out, okay. Could you tell me about your
15 job duties as a hairstylist? What did you do?
16 What are the responsibilities?

17 A My responsibility is to be courteous to the
18 client, listen what they need and perform the
19 service, high performance for the client.

20 Q What sort of services would you provide?

21 A Color, cut, highlight, corrective color, perm
22 and flatiron, up-dos. Pretty much everything.

23 Q Would you do shampooing?

24 A Shampooing included.

25 Q Did you have to do cleaning up?

1 worked. After somebody had a service with you
2 and they would go to pay, where would they pay?
3 Would they have to go back to the front desk, or
4 is it right in the spa?

5 A Front desk.

6 Q Okay.

7 A Yeah. I will provide all the information for
8 the client before I start the service, the cost,
9 the look that she will receive, the change,
10 pretty much everything and then we'll write a
11 ticket, you know, something that goes to front
12 desk. And from there the client will pay from
13 the front desk.

14 Q Okay. And during the period of time that you
15 worked for Life Time Fitness as a stylist, did
16 you have a typical work schedule?

17 A Can you rephrase? Typical?

18 Q Sure. Did you have a regular schedule, and I'm
19 just making this up, Monday through Friday 9:00
20 to 5:00?

21 A Yeah. Yeah, I would say Sunday, Monday off. I
22 was working Tuesday through Saturday.

23 Q And was that your preference, or is that just
24 what you were assigned?

25 A That was my preference and also accommodation.

1 A No.

2 Q How did you develop that clientele?

3 A From Life Time Fitness.

4 Q I take it you cut hair at other places -- and I
5 shouldn't say cut hair. You performed hair
6 services at places prior to working at Life Time
7 Fitness; is that right?

8 A Before, yes.

9 Q Did any of the clients that you worked with
10 before you came to Life Time Fitness follow you
11 to Life Time Fitness?

12 A A few.

13 Q When you would come to work while you were
14 working for Life Time Fitness, how would you get
15 into the building? Did you have to show some
16 kind of ID or swipe a badge or anything?

17 A No. We would come in the front door of the
18 salon.

19 Q Do you know whether all stylists are required to
20 report to work at the start of their scheduled
21 shift or whether they can report to work when
22 they have their first appointment? Do you know
23 how the scheduling worked with other stylists?

24 A No, not particularly.

25 Q Okay. Did you -- when you worked for Life Time

1 punch in and out?

2 A Yeah.

3 Q And you said Mr. Fuentes told you that it really
4 didn't matter whether you did or didn't?

5 A Yeah.

6 Q And you don't remember when he told you that?

7 A No, I don't remember.

8 Q Did anyone else, any of your other managers talk
9 with you about punching in or punching out?

10 A No.

11 Q And when you punched in, the times you punched
12 in, when would you punch in? Would you punch in
13 when you arrived at work?

14 A Sometime. Sometime I do -- sometime I did,
15 sometime I did not.

16 Q Okay. When you didn't punch in when you arrived
17 at work, when would you punch in?

18 A Do not remember. Since I was remembered that I
19 needed to punch in or punch out, you know, I was
20 doing it. But it was -- it was not enforcement,
21 so we all forgot. I forgot all the time punch
22 in and punch out, so...

23 Q And sometimes you would punch in when you first
24 came to work, other times you --

25 A Sometime yes, sometime I didn't.

1 Q And it would be later in the day that you would
2 punch in?

3 A Later in the day or maybe when I was going for
4 lunch and come back.

5 Q When you were leaving, when would you punch out?
6 When you were finished for the day?

7 A Sometime.

8 Q And what about the other times?

9 A Sometime was punching when I was coming in,
10 sometime was punching when I was leaving. I
11 don't remember exactly.

12 Q Would you ever punch out and then do work after
13 you punched out?

14 A Yes.

15 Q Why would you punch out and then do work after
16 punching out?

17 A Punch out to go to lunch and then forget to
18 punch out when I come back.

19 Q Okay. So you might punch out, go --

20 A I mean, punch out when you go for lunch, then
21 when you come back, forgot to punch in, so I was
22 working.

23 Q Any other situations where you would punch out
24 and then do work?

25 A Rephrase the question.

1 system.

2 Q So you think Francisco Fuentes put your schedule
3 into the computer system?

4 A I think so.

5 Q Okay. So he would have had in the computer
6 system that you were working Tuesday through
7 Saturday 9:00 to 7:00 or 9:00 to 9:00?

8 A Correct, to keeping track of the schedule
9 because every hairdresser had a different time.

10 Q Did any of the other hairstylists ever tell you
11 what Francisco Fuentes told them about whether
12 they needed to punch in or not?

13 A No.

14 Q Would you go back, sir, to Exhibit No. 7 which
15 is -- it's this LifeSpa Stylist guide.

16 A Okay.

17 Q And if you would turn to the page we were on
18 before, 1107. Do you see toward the bottom of
19 the section it says -- there's a sections says
20 "Getting Paid"?

21 A Yes.

22 Q And you see it says: "All team members must
23 punch in and out"?

24 A Yes.

25 Q Did anybody ever tell you that?

1 Q Yeah, do you see --

2 A -- various time?

3 Q Yes.

4 A Yes, I see.

5 Q Okay. And it looks -- does it look like under
6 the column for "In," there's a time entry and
7 then under the column for "Out" on some dates
8 there's a time entry as well, correct?

9 A Okay. Let me see. Yes.

10 Q Then can we go back, sir, to Exhibit No. 2 which
11 is your interrogatory responses.

12 A Okay.

13 Q And I would like to look at the response to
14 No. 5; do you see that?

15 A Yes.

16 Q Okay. Your response there to No. 5 says: "I
17 regularly worked nine hours per day and up to
18 approximately 54 hours per week," correct?

19 A Yes.

20 Q Okay. Do you know what the schedules that other
21 hairstylists worked were? Did they regularly
22 work nine hours a day and 54 hours a week, or
23 would that have varied, if you know?

24 A I don't -- I don't know their schedule. It's
25 vary. A lot of people -- I believe they work

1 full-time. Most of the hairdressers there work
2 full-time, but different schedules, so...

3 Q Were or weren't full-time?

4 A They were full-time, yeah.

5 Q Were full-time, okay. I just wanted to make
6 sure I understood you.

7 A Yeah, they work full-time.

8 Q But different schedules?

9 A Different schedule, yes.

10 Q And then a little further down in your response
11 to interrogatory No. 9, you state that your
12 managers did not enforce a strict clock-in and
13 clock-out work policy and that managers would
14 tell you not to worry about clocking in or out
15 because it did not matter for commission paid
16 employees like you, correct?

17 A Correct.

18 Q Okay. And we talked a little bit about that
19 earlier today?

20 A Yeah.

21 Q Okay.

22 A Because we were on commissions so it wasn't
23 important or...

24 Q And I just want to make sure. Did any managers
25 other than Mr. Fuentes say that to you?

1 A No.

2 Q It was just Mr. Fuentes?

3 A Yeah.

4 Q And I think you told me that you had a couple of
5 conversations with him about that; is that
6 right?

7 A Yes.

8 Q And you don't remember the particulars or
9 specifics?

10 A Not really. I don't remember exactly because I
11 was busy and I gotta do this, I gotta do that, I
12 got a meeting and it was just like...

13 Q Any of the times when he talked with you about
14 the fact that it didn't matter whether you
15 punched in or punched out, were there ever any
16 other employees present for those conversations?

17 A I don't remember.

18 Q Did you ever receive a written document that
19 told you you didn't need to punch in or punch
20 out?

21 A No, I never receive any document specify -- that
22 specify you need to do this or you don't need to
23 do that.

24 Q And nobody other than Mr. Fuentes told you that
25 you did not need to punch in or punch out?

1 A Nobody else. Because he was the manager for a
2 long period of time, so like almost a year and a
3 half, so...

4 Q Are you aware of any Life Time Fitness policy
5 that prevented you or stopped you from punching
6 in or punching out?

7 A No.

8 Q Are you aware of any Life Time Fitness policy
9 that said that you should punch out before you
10 finished working for a day?

11 A No. I was relying to my manager words so I
12 didn't looking for any.

13 Q Okay. Are you aware of any Life Time Fitness
14 policy that said that you should start work
15 before you punched in?

16 A No.

17 Q And then on interrogatory No. 5 about two-thirds
18 of the way down, you say: "In other words, it
19 was known by Life Time Fitness management that
20 we would routinely work off the clock"; you see
21 that?

22 A Okay. Response to 5?

23 Q Yes. It's about -- and I'm about two-thirds of
24 the way down that response and it says: "In
25 other words, it was known by Life Time Fitness

1 lunch, we were doing it for lunch and not for
2 all the others so we forget all the time.

3 Q Right. But if it becomes automatic, why -- and
4 you think you're not being properly paid, why
5 wouldn't you just punch in and punch out?

6 A Because it didn't matter. The paycheck even
7 when I was punching time all the time, it won't
8 change it. The paycheck when I look at it, they
9 all the same. It didn't matter if you were
10 working 40 hours and punch in, punch out.
11 Matter of fact, there was some paycheck stub
12 that show that you work more than 40 hours or
13 whatever the paycheck and sometime I work more
14 than 40, 50 hours and then I punch in and punch
15 out. But it didn't matter. Paycheck was still
16 the same, so I said forget it. So sometime I
17 was punch in and sometime I was punch out, but
18 it wasn't -- it wasn't a mandatory thing, so I
19 said -- so it doesn't matter. If you have been
20 told that it's not important for you to punch
21 in, punch out, you know, I won't punch in and
22 punch out.

23 Q And you don't know how often other stylists
24 would or wouldn't punch in; is that fair?

25 A No, because, you know -- I don't know that.

1 Q Could we go back to Exhibit 13? And that's that
2 time punch document that we were looking at
3 briefly before.

4 A Yeah.

5 Q Okay. On -- would you agree with me that on
6 Page 2 of that document they show punches in and
7 punches out for you?

8 A Yes.

9 Q Okay. And then Page 3 as well?

10 A Yes.

11 Q Page 4?

12 A Yes.

13 Q Page 5?

14 A Uh-huh.

15 Q And then if you go to Page 6 it looks like on
16 that page at least, the punches stop at about
17 December 30th; is that right?

18 A Yes.

19 Q Okay. And then would you continue on and it
20 looks like there are no punches on Pages 7, 8
21 and then all the way over to Page 9 until
22 August 28th, correct?

23 A Uh-huh.

24 Q Do you know, was there anything special about
25 that period of time, from December 30th until

1 August 28th that caused you to not punch in or
2 out at all during that period of time?

3 A No, there was no reason.

4 Q Okay.

5 A It was all blank, so...

6 Q Do you know why you would have started punching
7 back in and out again on August 28th?

8 A On August 28th of what year?

9 Q I believe it is August 28th, 2011.

10 A I got no idea. I don't know.

11 Q Okay.

12 A Rather than the week that I missed that I was in
13 Vegas. They should be the only time that showed
14 that I couldn't even punch in, punch out.

15 Q Do you know when --

16 A I don't have a answer for that, sorry.

17 Q Do you know when Mr. Fuentes stopped serving as
18 your manager?

19 A No, I don't remember.

20 Q Let's go back to Exhibit No. 4 if we could.
21 It's the one that -- it's a three-page document,
22 looks like this. Take your time. Would you
23 turn to the second page of that document and
24 under the manager history section that we talked
25 about earlier today, do you see the reference to

1 weren't sort of tracking or following what you
2 were doing on a day-to-day basis; is that right?

3 A What was the question?

4 Q Your supervisors, they were not following you or
5 tracking what you were doing on a day-to-day
6 basis; is that right?

7 A They weren't tracking anyone, yeah.

8 Q They were oftentimes not even in the salon area?

9 A In and out, you know, besides the last one.
10 Holly, she was more often at the front desk
11 because they had a lot of problems at the front
12 desk.

13 Q Okay.

14 A Not having enough employees in the front desk.
15 It was causing, you know, a chaotic time some,
16 so she had to be there and manage, you know,
17 appointment, the phone calls and all this, all
18 that.

19 Q Okay. And if I understood you correctly
20 earlier, the supervisor was not necessarily
21 aware of when you were coming to work or when
22 you were leaving work; is that correct? If I'm
23 wrong, correct me.

24 A You're wrong, no. They know when you leave and
25 when you come back -- when you -- they know it.

1 A -- human resources -- if it's connection with
2 human resources or not, but --

3 Q Okay. All right.

4 MR. CHRISTENSEN: If you could give me
5 about five minutes to look over my notes, I
6 think I'm --

7 MR. PRIETO: Sure.

8 MR. CHRISTENSEN: -- close to wrapping
9 up.

10 MR. PRIETO: No problem.

11 (A recess was taken.)

12 Q (By Mr. Christensen) Would you agree with me
13 that the company policies that we've looked at
14 today during your deposition tell employees that
15 they're supposed to enter time accurately and
16 are supposed to punch in and punch out? I'm not
17 talking about what you were told by anybody, but
18 the policies that we looked at today?

19 A The policy you present today, it say so, yeah.

20 Q Okay.

21 (Clarification requested by the
22 reporter.)

23 A The policy that you present today to me does say
24 so.

25 Q (By Mr. Christensen) It does say so?



New Hire / Rehire Form

HIRE DATE: 4/20/2010 CLUB NAME: HCC

TEAM MEMBER INFORMATION

New Hire: ☒ Rehire: ☐ (With HR Approval)

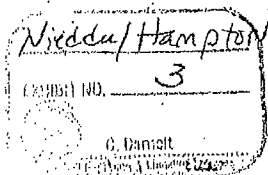
PLEASE PRINT CLEARLY

SOCIAL SECURITY #: Redacted BIRTHDATE: 7/20/1965LEGAL NAME: Pier GIORGINO NIEDDU
(First) (Middle) (Last)GENDER: Male (circle one) MARITAL STATUS: single CURRENT LTF MEMBER (Y or N): NADDRESS: 218 Pico Rello Dr HOUSTON 77077
(Street Name and No.) (City) (State and Zip code)HOME PHONE #: 832 658 7769 E-MAIL ADDRESS: Pier@hcc.comEMERGENCY CONTACT: KAREN PABIZKE RELATIONSHIP: FANCIE PHONE #: 832 877 5367

JOB INFORMATION

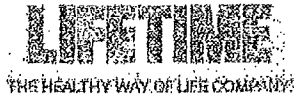
FULL TIME: ☒ PART TIME: ☐ REQUESTED PHONE EXTENSION: 120JOB TITLE: Stylist - Apprentice DEPARTMENT: Info Sp - 120HOURLY RATE \$: 11.00 SALARY \$: 22 TARGET INCENTIVE \$: 0HIRING MANAGER: [Signature]
(Print Full Name as it appears in MMS)

SIGNATURES AND APPROVALS

1st Level Management: [Signature] Date: 4/20/20102nd Level Management: [Signature] Date: 4/28/10Recruiting Manager (Dept. Head and Above): [Signature] Date: 4/28/10Compensation Manager (Dept. Head and Above and Exceptions): [Signature] Date: 4/28/10HR Use - Team Member New Hire #/i: 93858 HRIS Coordinator Initials: WRECEIVED
APR 21 2010

Confidential

LTF00000286



View Event: Terminate: Pier G.
Nieddu (Terminated) (93858)

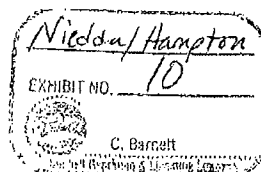
02:35 PM
09/14/2012
Page 1 of 1

For: Pier G. Nieddu (Terminated) (93858)
Overall Process: Terminate: Pier G. Nieddu (Terminated) (93858)
Overall Status: Successfully Completed

Details			
Employee: Pier G. Nieddu (93858)			
Position: LifeSpa-Stylist			
Termination Date: 03/15/2012			
Reason: Involuntary > Misconduct/Violation			
Decrease Headcount: Yes			
Additional Information			
Secondary Reasons:			
Last Day of Work: 03/15/2012			
Pay Through Date: 03/15/2012			
Resignation Date:			
Notify By: 03/15/2012			
Recommended Minimum			
Notification Date: 03/15/2012			
Regrettable:			
Attachments			
Workfile Document	Document ID/Category	Initiated By	Initiated Date
TERMINATION PROCESS QUESTIONNAIRE (2).doc	Termination	e100976 / Holly A. Dodson	03/26/2012 07:06:32.638 PM

Process						
Process History						
Process	Step	Status	Completion On	Due Date	Person	Comment
Termination	Termination	Submitted	03/26/2012 07:06:32 PM		Holly A. Dodson (100976)	
Termination	Approval by Manager's Manager	Approved	03/27/2012 09:42:37 AM		Patrick J. Fricano (95442) (Manager's Manager)	
Termination	Approval by Employee Relations	Approved	03/27/2012 09:46:39 AM	03/29/2012	Brianne L. Weber (53298) (Employee Relations)	
Termination	Service: Terminate User Account	Step Completed	03/27/2012 09:46:39 AM		Workday Service	
Termination	Service: Deactivate Worker Payment Elections	Delayed	07/10/2012 02:00:00 AM			
Change Benefits for Life Event	Change Benefits for Life Event	Automatic Complete	03/27/2012 09:46:39 AM	03/29/2012		
Termination	Review COBRA Eligibility	Completed	03/27/2012 02:36:40 PM		Lisa Boaz (94336) (Benefits Partner)	
Termination	Service: Deactivate Worker Payment Elections	Step Completed	07/10/2012 02:01:29 AM		Workday Service	

Confidential



LTF00000276

INVOLUNTARY TERMINATION PROCESS QUESTIONNAIRE

Complete the Termination Questionnaire to assist you, your General Manager, Area Director, and Employee Relations in determining whether or not the team member's termination is appropriate and falls within Company guidelines.

Attach an electronic copy of this questionnaire and all documentation, as stated below in #6, to termination process in Workday.

1. Your name: Holly Dodson Title: Spa DH Club: City Centre
2. Name of team member being terminated: Pier Giorgio Nieddu
3. What was the final incident that warrants the termination? Provide a detailed account of the final incident: Giorgio was working at another salon, doing booth rental. Stephen ADH and I had a meeting with him, (Wed) and he admitted to working there due to helping a friend out. I showed and gave a copy of his salon agreement letting him know that he could not work for another salon/ spa establishment while maintaining employment with City Centre LifeSpa. He said he would talk to the friend he was working for and let me know his plans that Friday. When He came to work on Thursday I caught him smoking a electronic cigarette in the color bar area. When I told him that he needed to take that outside, he began to argue with me, and ask me " What are you going to do about it" So I spoke with my regional and HR and Frank DH and I pulled him into the office and told him he needed to leave until further notice.
4. Has this team member been properly trained? YES Provide details of training: Has been with the company almost two years and is very aware of rules and regulations for LTA
5. Has this team member been previously disciplined? (i.e. employee relations assisted the DH with drafting and delivering a warning report or performance improvement plan) Answer YES or NO and provide details as to when and how the team member has been disciplined: NO
6. You must submit all documents that support and contradict the termination (i.e. warning reports, performance improvement plans, annual reviews, etc) by attaching them to the termination request in Workday.
7. Have all options short of termination been exhausted (i.e. appropriate coaching, corrective actions, final warning)? Answer YES or NO and provide details of all previous actions taken: Yes, I spoke with him about his salon agreement and he was fully ware of the consequences of working in another salon.
8. Who is requesting the termination? (Name and Title) Holly Dodson DH LifeSpa
9. Will the team member be surprised that s/he is being terminated? Answer YES or NO and explain your answer: NO. He gave his resignation three times when Stephen and I spoke to him about his salon agreement then decided to wait until Friday.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

PIER NIEDDU, on Behalf)
of Himself and Others)
Similarly Situated,)
Plaintiff,)

VS.) CIVIL ACTION NO.
4:12-CV-02726

LIFE TIME FITNESS,)
INC., LTF CLUB)
MANAGEMENT CO., LLC,)
and LTF CLUB OPERATIONS)
CO., INC.,)

Defendants.)

ORAL DEPOSITION OF
ROSALIND HAMPTON
MARCH 18, 2013

ORAL DEPOSITION OF ROSALIND HAMPTON, produced as a
witness at the instance of the DEFENDANTS, and duly
sworn, was taken in the above-styled and numbered cause
on MARCH 18, 2013, from 12:37 p.m. to 3:03 p.m., before
CYNTHIA E. DODGE BARNETT, CSR, RPR, in and for the State
of Texas, reported at the offices of Shellist Lazarz
Slobin, 11 Greenway Plaza, Suite 1515, Houston, Texas,
pursuant to the Federal Rules of Civil Procedure and the
provisions stated in the record or attached hereto.

1 A No, sir.

2 Q Okay.

3 MR. CHRISTENSEN: Could we go off the
4 record for just one second?

5 (A recess was taken.)

6 Q (By Mr. Christensen) And I think I asked you
7 this question, but if I did I don't remember and
8 I apologize if I'm repeating. Have you ever
9 testified in a trial or other formal proceeding?

10 A No.

11 Q Okay. Did you do anything to get ready for your
12 deposition today?

13 A Yes.

14 Q Okay. What was that?

15 A I prayed.

16 Q Okay. Other than prayer, anything else you did?

17 A No.

18 Q Okay. Did you look over any documents to get
19 ready for today?

20 A No.

21 Q Okay. Are you currently employed?

22 A No.

23 Q And when is the last time that you were
24 employed?

25 A Last time I was employed was at Life Time

1 Fitness at City Centre, Houston, Texas, as of
2 February the 13th.

3 Q Okay. And this was your last day of employment,
4 February 13th?

5 A Yes.

6 Q Okay. And why did you decide to join or opt
7 into this lawsuit?

8 A Because of -- I was working for Life Time
9 Fitness for four years. I was a loyal and
10 committed employee and I was very disappointed
11 in the practices and the monies being taken out
12 of my check and also not being paid for overtime
13 and not having enough money to survive.

14 Q Okay. And when did you first think about opting
15 into this lawsuit?

16 A Immediately after I found out what was going on.

17 Q Okay. And when you say what you found out was
18 going on, found out what was going on at Life
19 Time Fitness or found out about the lawsuit?

20 A Found out what was going on at Life Time
21 Fitness.

22 Q Okay. And when did you find out what was going
23 on at Life Time Fitness?

24 A After asking -- trying to get advice from
25 employment and resolutions department and

1 A Why wasn't I getting paid overtime, why wasn't I
2 reimbursed for products that I bought for my
3 clients and why don't I have any products for
4 any clients. I had ethnic clientele, black
5 clientele. Why don't I have products for them
6 and why wasn't I paid back for those products?
7 And why am I getting charged on my check for
8 what they call shop charges --

9 Q Okay.

10 A -- for foils and things I don't use? And
11 meetings, like mandatory meetings we had on
12 Monday, we didn't get paid for that. I didn't
13 get paid for mandatory meetings. I didn't get
14 paid for continuing education classes. I didn't
15 see those on my check.

16 Q Okay.

17 A Several issues, ongoing issues, four years.

18 Q And did you raise these issues during the whole
19 period of your employment?

20 A Yes.

21 Q Did you ever get any satisfaction with respect
22 to any of those issues?

23 A No, it was always a dead end.

24 Q Okay. And when did you first find out about the
25 lawsuit that you're a part of now?

1 Q And who told you that it didn't matter whether
2 you clocked in or out?

3 A Francisco Fuentes and other people that sat in
4 his position.

5 Q Who specifically other than Mr. Fuentes do you
6 recall?

7 A I have those names wrote down. They came
8 through like maybe ten of them, so I don't know
9 their name. Their whole names was like -- can I
10 pull that out?

11 Q Is it one of the documents you submitted --

12 A No, it was not a document.

13 Q Oh, you can pull it out, sure.

14 A I just want to tell you the names. Okay. Here
15 are the people that -- Moniqua, she was a
16 standing-in manager. She was after Francisco
17 Fuentes. And Robert Shaler, he work alongside.
18 He was Francisco Fuentes' assistant. Holly
19 Dodson, she transferred from another location.
20 She was a department head. She stayed there
21 maybe three -- maybe three months. Christine,
22 Merquis Guzman, Jessica Darby and some corporate
23 guy that was a floater. His name was Glen, and
24 I'm not sure what location he came from.

25 Q Okay.

1 A And these all were people within -- from the
2 time Francisco Fuentes left the company until
3 now.

4 Q And is it your testimony that all of those
5 individuals told you that it didn't matter
6 whether you punched in or punched out?

7 A Well, they weren't sure either. I would say the
8 answer is yes.

9 Q Okay. And why do you say they weren't sure
10 about punching in or punching out?

11 A They had a lot to learn to replace him.

12 Q And did any of those people, Moniquca, Robert
13 Shaler, Holly Dodson and the others that you
14 referenced, did any of them tell you that they
15 didn't know whether you should or shouldn't
16 punch in or out?

17 A Yes. I would say yes. The answer is yes.

18 Q And I think you had mentioned that you were paid
19 on a commissioned basis; is that correct?

20 A That's correct.

21 Q Was that throughout your employment with Life
22 Time Fitness?

23 A No, sir, it wasn't.

24 Q Okay. When did you start becoming paid on a
25 commissioned basis?

1 A I would say October, October of 2011.

2 Q And prior to becoming employed by Life Time
3 Fitness on a commissioned basis, how were you
4 paid?

5 A I was paid hourly.

6 Q Okay. And when you were paid on an hourly
7 basis, did you punch in and punch out?

8 A Yes, sir, that's correct.

9 Q And when you paid on an hourly basis, did you
10 get paid for all the time that you worked?

11 A No. That's for the overtime like the mandatory
12 meetings and the continuing education classes
13 and staying overtime when he needed me to stay.

14 Q And so why wouldn't you or how didn't you get
15 paid for that time if you were punching in and
16 punching out?

17 A Because I punched out at my regular time. He
18 was -- Francisco was very adamant about us doing
19 what he told us to do.

20 Q I don't want to put words into your mouth, but I
21 want to make sure I understand what you're
22 saying. Are you saying that Mr. Francisco
23 Franco -- excuse me --

24 A Fuentes.

25 Q -- Francisco Fuentes --

1 Q Okay. And the question I'd like you to answer,
2 though, is how often did Mr. Fuentes tell you to
3 clock out, go home and then call you back into
4 work?

5 A I don't -- I don't know. I can't answer that
6 question. I don't know, sir, I don't know.

7 Q You don't know?

8 A It was just often. That's the only thing I can
9 say.

10 Q But I need a descriptor of "often." What does
11 often mean?

12 A Often is more times than once.

13 Q So maybe as little as twice?

14 A More than twice.

15 Q Okay. Three times?

16 A I would say -- I'm not sure. I can't answer
17 that, but it was often.

18 Q But possibly as little as three times being
19 often?

20 A Possibly.

21 Q I'm going to show you, ma'am, what the court
22 reporter has marked as Deposition Exhibit
23 No. 16. Have you seen this document before?

24 A Yes, sir.

25 Q Okay. And is that your signature on the bottom?

1 A Yes, sir.

2 Q And a November 15th, 2012 date, correct?

3 A Yes, sir.

4 Q And that is the document you signed to join this
5 lawsuit, correct?

6 A Yes, sir.

7 Q Okay. And, ma'am, would you look at the
8 document in the pile to your right that's
9 labeled Exhibit No. 1? There's a number of
10 documents that we used earlier this morning with
11 Mr. Nieddu that I'm going to ask you to look at
12 as well. The document that's labeled as Exhibit
13 No. 1 is the complaint in the lawsuit that
14 Mr. Nieddu brought against the defendants. Have
15 you seen the document marked as Exhibit No. 1
16 before?

17 A When you say document No. 1, you mean this
18 document No. 1 right up at the top of the page
19 here?

20 Q At the very bottom it says Exhibit 1; do you
21 see --

22 A Oh, okay. Yes --

23 Q -- that? Yep.

24 A -- sir, I see it. Yes, sir, I have seen this
25 before.

1 No. 1. It's -- I think it's about the third
2 page of the document, though they aren't
3 numbered. It's at the top, interrogatory No. 2,
4 do you see that, and then --

5 A Yes, sir.

6 Q -- response? It says: "I started working for
7 Life Time Fitness on or about May 31st, 2010 and
8 am currently employed by Defendants.

9 A Yes.

10 Q Okay. And at the time you created this
11 document --

12 A Yes, I --

13 Q -- you were still employed at Life Time?

14 A Yes, I was.

15 Q Yes. Okay. I'm going to hand you what the
16 court reporter has marked as Deposition Exhibit
17 No. 18 and would you look that document over
18 when you have a chance?

19 A Okay.

20 Q Okay. The document that I've handed you that
21 we've marked as Exhibit No. 18 is entitled New
22 Hire/Rehire Form, correct?

23 A Yes.

24 Q Okay. And that has your hire date at the top.
25 It appears to say -- is that -- do you know, is

1 that 5-3 or 5-31-2010?

2 A That's 5-31 --

3 Q Okay. And --

4 A -- the 31st of May --

5 Q Okay. And this doc --

6 A -- 2010.

7 Q And this reflects that you started Life --

8 started at Life Time Fitness on or about

9 May 31st, 2010?

10 A That's correct.

11 Q Okay. And then a little further down on that

12 document about halfway down under the job

13 information section, there's a part that says

14 "Job Title"; do you see that?

15 A Yes.

16 Q And it says "stylist/apprentice." Is that the

17 position into which you were hired as you

18 recall?

19 A Well, when I started, they had me as a -- I

20 wasn't a stylist. They had me as a shampoo

21 girl.

22 Q Okay. And how long did you remain a shampoo

23 girl, if you recall?

24 A Well, my positions changed. As long as he was

25 there.

1 A It was a joke.

2 Q Oh, okay. So there were just two positions
3 shampoo girl and then commissioned stylist?

4 A Yes, sir.

5 Q And as a shampoo girl, what were your duties and
6 responsibilities?

7 A Shampooing for all the hairstylists.

8 Q Okay.

9 A And I was on a commission basis as well. I was
10 informed that I would get commission for the
11 products that I sold to clients.

12 Q Okay. And then when you became a commissioned
13 stylist, did your job duties change?

14 A Yes.

15 Q Okay. And how -- what happened at that point in
16 time? How did they change?

17 A At that the point in time I was on 100 percent
18 commission and I got commission for still -- for
19 retail.

20 Q Okay.

21 A And my hours were cut dramatically to four hours
22 per day -- yes, four hours per day five days a
23 week.

24 Q Okay. And that's when you became a commissioned
25 salesperson that your hours got cut?

1 A Yes, when my position changed, my hour position
2 changed to --

3 Q Okay. And what were your --

4 A Yeah, a commissioned stylist.

5 Q Did you have a typical or standard schedule that
6 you worked?

7 A Well, initially when I was hired, I was hired to
8 work from 9:00 to 6:00.

9 Q As a shampoo girl?

10 A Yes.

11 Q Okay. And then when you became a commissioned
12 stylist and your hours got reduced, what was
13 your schedule?

14 A 9:00 to 1:00. 9:00 a.m. to 1:00 p.m.

15 Q And whose division was it to reduce your hours
16 at that time?

17 A I have not found that out and I have not found
18 out why my hours were cut still to this day.
19 That's my reason for not being employed there.

20 Q And did anyone -- do you recall anyone
21 explaining to you why your hours were cut?

22 A No one ever explained anything to me.

23 Q Did you ask any questions?

24 A Yes, sir.

25 Q Do you recall who you asked?

1 And I don't have a lot of questions about the
2 document, but please take your time and look
3 through it. I just want to ask you if you
4 recognize the documents that compile Exhibit
5 No. 19?

6 A Yes. Can I state something right quick?

7 Q Yes.

8 A I notice on these documents from the front,
9 there are none of my commissioned sales on here,
10 none, absolutely none.

11 Q Okay.

12 A Upon hiring by Mr. Francisco Fuentes, I was
13 supposed to get commissioned sales plus hourly.
14 I'm beginning to see some now. Yeah, this
15 changed very drastically. (Reviewing document.)
16 I'm observing here an hourly rate that's not
17 right.

18 Q And why don't you think an hourly rate is right?

19 A Because I wasn't getting paid hourly because
20 this is up until current time, right?

21 Q No. Actually it appears what this document has,
22 and you can check me if I'm wrong, they are pay
23 stubs from the period of time starting June 1st,
24 2010, which is the very first page, and then
25 they end on October 31st, 2012. And I believe

1 these are pay stubs that reflect the period of
2 time that you were paid --

3 A Paid hourly.

4 Q -- hourly?

5 A Okay. But I see a lot of my commissions are not
6 on there as well, but, you know.

7 Q Would you agree with me that some of these pay
8 stubs reflect that you were being paid retail
9 commissions in addition to an hourly rate?

10 A Some of them, but all of them not on there. But
11 I can't go into explanation on any of that.

12 Q But you do agree that there is at least
13 references on a number of these --

14 A There are references --

15 Q Okay.

16 A -- yes, there are.

17 Q And did you also see some references to overtime
18 pay on some of these pay stubs? Please feel
19 free to look at them again as long as you need
20 to get comfortable with that statement.

21 A Yeah, I see one reference.

22 Q Okay. And did you see some references on there
23 to pay for training time or in-training?

24 A Let's see, in-training. That would be...

25 Q It's not on every stub but it's on some of them.

1 Q Okay.

2 A It's below minimum wage.

3 Q What's below minimum wage?

4 A The shop charges taken out, plus my insurance
5 taken out and everything else, all the
6 deductions that were taken out due to the shop
7 charges. And also, I don't know if you're
8 familiar with premium fees that they took out of
9 the checks as well, and I still don't know what
10 they are.

11 Q Were shop charges ever deducted from your checks
12 that you were aware of while you were paid on an
13 hourly basis?

14 A Not that I'm aware of.

15 Q So --

16 A I would have to go back through the documents.

17 Q So shop charges became an issue once you became
18 a commissioned stylist; is that fair?

19 A Really an issue, yes, really because I was
20 buying my clients' products. Like I said, I
21 have an ethnic clientele and I was buying my
22 clients' products. And when I had to get
23 products for my clients, I would have to buy
24 them and when I asked the acting supervisors to
25 get them, they said, "Why are you buying

1 products?"

2 "I'm buying products because I have
3 clients coming in today. Can you get a
4 descriptor? Can you pay me my monies back for
5 the items that I have" -- relaxer cost a lot of
6 money. I paid for -- I paid a lot of money for
7 relaxers. And then when I had them to get the
8 relaxer, they didn't -- they don't know anything
9 about relaxers. So they would buy just the
10 relaxer.

11 With a relax -- when ethnic people get
12 relaxers, you have to have the shampoo, the
13 conditioner, and everything that comes -- it
14 gets in the system. It's just not one thing.
15 You have to have everything. Or we have to
16 check the budget. So I'm not going to sit
17 around and wait for them to get that. I have to
18 accommodate the clients.

19 So that wasn't always -- that was
20 always an issue, then plus on top of that then
21 I'm getting shop charges taken out and I haven't
22 been reimbursed for what I've bought.

23 Q And how often would you buy product that you
24 used?

25 A All the time. All the time, whether it be some

1 Q No, no, hourly rate's gone.

2 A -- I was going baby, that's gone bye-bye by
3 then.

4 Q When you become commissioned, you were no longer
5 paid an hourly rate?

6 A No.

7 Q Okay. But your schedule also was changed to be
8 only 9:00 to 1:00 five days a week; is that
9 right?

10 A Yes. And then I wanted to add that when I was
11 working those hours, I was the only one working
12 those hours. That's why I kept asking and
13 asking and asking because when you're on a
14 commission basis, they tell me when you're on a
15 commission basis, you get to pick your hours.
16 You get to choose your hours as an independent
17 contractor. And that wasn't true because I
18 continued to work up until February the 13th the
19 same time, the same hours.

20 Q Okay. So you continued to work 9:00 to 1:00 the
21 entire time until your termination?

22 A Uh-huh.

23 Q And did I understand you right that you were the
24 only stylist working those hours?

25 A Yes.

1 Q So there was nobody else in the spa?

2 A Nobody else was working those hours. Everybody
3 else picked and chose their hours. Everybody
4 else worked from 9:00 to 6:00. They had
5 rotating hours.

6 Q Okay. When you say no one else was working
7 those hours, you mean other people were there
8 when you were there, but they just --

9 A Right.

10 Q Okay.

11 A It was just like I was leaving early. But I
12 know the -- I just smiled and kept going because
13 they was like you lucky, but they didn't know.

14 Q Would you take a quick look at the document that
15 we marked as Exhibit No. 11 in the pile to your
16 right? Should be a copy of the employee
17 handbook.

18 A Okay.

19 Q Do you recognize the document that was marked as
20 Exhibit No. 11?

21 A This goes along with -- very vaguely.

22 Q Okay. Do you think you received a copy --

23 A You know why I don't know it? Because I didn't
24 get a copy of it. It was online.

25 Q There was a copy of it available online?

1 Q Okay.

2 A But I went into part-time mode when I did my
3 transition --

4 Q All right. Okay.

5 A -- when my hours got cut.

6 Q Okay.

7 A That should have been done. So I'm getting shop
8 charges taken out, my insurance taken out and so
9 my check is like (indicating).

10 Q Okay. Do you have an understanding of how the
11 tip credit system at Life Time Fitness worked?

12 A We don't want to even talk about that. Tips?

13 Q Tips. Did you ever receive tips?

14 A Some of them.

15 Q Okay. And do you have any understanding of how
16 the tip credit system worked at Life Time --

17 A No.

18 Q Okay. Do you have any --

19 A Can you reiterate that?

20 Q Do you have any dispute with Life Time Fitness
21 over the way it handled your tips?

22 A Oh, yes, of course, my tips and my commission.

23 Q Okay. And what's --

24 A I want to add this to the record. My
25 commissions -- some of my commission, my

1 co-workers knew how to work the SpaBiz software
2 and they would go in and take my sales of my
3 commission away because they knew how to work
4 the software. Those were taken away from me.

5 Q Who do you believe took away sales from you?

6 A Marisol Campos and Jessica Krause.

7 Q And why do you believe that?

8 A I believe that because when I was a shampoo
9 assistant, I shampooed for their clients and I
10 sold them products, I sold their clients
11 products. So they didn't feel like it was fair
12 and they told Mr. Francisco Fuentes -- you put
13 his name down there, too -- Francisco Fuentes
14 about it and he would go in and change it. So
15 I'm keeping record of what I'm doing when I'm
16 shampooing -- keep in mind I'm shampooing for
17 like nine people. So the majority of them were
18 from these young ladies. And when I would sell
19 at the end of the day, they would go into the --
20 it wasn't SpaBiz then, I'm sorry. It's SpaBiz
21 now. Shortcuts.

22 Q Okay. And you think that they took sales that
23 were made to customers that you think you made
24 and gave themselves credit for it?

25 A Exactly. That's exactly what they did.

1 Q Okay. And did clients ever just hand you money
2 rather than putting it on the credit card? Say
3 you finish doing my hair --

4 A If they were allowed. If they were allowed,
5 yeah.

6 Q So there's --

7 A If not, they would leave it at the front --

8 Q Okay.

9 A -- and we should get them at the end of the day.
10 But there's been several times that I did not
11 get my tips.

12 Q Do you know what happened to the tips?

13 A I don't know what happened to them.

14 Q I mean, is it the company not paying them to
15 you? Is it other people taking -- other
16 employees taking tips that were really yours?

17 A They're a part of the company -- if they're --
18 if they're employed by the company, that's the
19 company, right?

20 Q I suppose one could quibble about that. But I'm
21 just trying to understand from your perspective,
22 is it the company keeping it and never paying it
23 out to you, or is it put on the counter and
24 somebody's taking it?

25 A I would say -- I can't answer that question. I

1 A On the massage side --

2 Q Okay.

3 A -- yes.

4 Q Okay. And so they -- if they were in their
5 office, the supervisors on the spa side, they
6 wouldn't necessarily see employees coming and
7 leaving from the salon side?

8 A No.

9 Q Okay. How often were the supervisors over on
10 the salon side? Were they --

11 A You almost made me say something. Okay. How
12 could I answer that question? Repeat it again.

13 Q Yeah, I guess I'm -- I'm just trying to get a
14 feel for how much interaction the stylists would
15 have during the day with their supervisor. Was
16 the supervisor pretty regularly or consistently
17 over in the salon, or rarely in there?

18 A Periodically.

19 Q Okay. Okay.

20 A They were there either when there was a problem
21 in the front desk or if there was nobody to work
22 the front desk. But any other time they would
23 be in the office.

24 Q Okay. Were job duties as a commissioned
25 hairstylists the same, in your opinion, as the

1 job duties of the other commissioned
2 hairstylists in the City Centre --

3 A Oh, no. They had me cleaning up all the time
4 like I was a maid. No.

5 Q Okay. So you had different duties than the
6 other hairstylists?

7 A Yes.

8 Q Okay. When you were a hairstylist, how busy
9 were your workdays?

10 A How busy -- as far --

11 Q I know you said you were there --

12 A -- as productivity?

13 Q Yeah, exactly. I think you said you were --
14 when you became a commissioned stylist, you were
15 typically there from 9:00 to 1:00 five days a
16 week. Were you fully occupied during those
17 hours?

18 A I tried my best to be. If I wasn't there, I was
19 out marketing trying to get somebody to come in
20 to see me because they would -- the clients
21 would call and they would tell them that I
22 didn't work there anymore -- either they'd tell
23 them that, "She's not here. Can I put you with
24 somebody else?" It was always something.

25 Q Okay.

1 A So when I wasn't in there, I was marketing.

2 Q Okay. And would you always arrive for work at
3 the start of your scheduled work hours? So --
4 and by that, I mean if you're scheduled to work
5 from 9:00 to 1:00, would you arrive at 9:00
6 whether you had an appointment then or not?

7 A Yes.

8 Q Okay.

9 A Yes.

10 Q And did you always stay until 1:00 whether you
11 had an appointment or not?

12 A Yes.

13 Q And I think you told me earlier other
14 hairstylists had different start times and
15 different end times, and other hairstylists,
16 some of them worked longer schedules than you
17 did?

18 A Yes.

19 Q Other than actually working on customers and
20 doing marketing-type work, what other kind of
21 work would you do when you weren't doing one of
22 those two things but were at the workplace?

23 A Cleaning up behind them.

24 Q Okay. Did you ever have to do any work with
25 products or anything like that?

1 A Yeah. I was the one put them up.

2 Q Okay.

3 A I did the inventory, I did the towels, I did the
4 laundry, I did the stocking, I did sweeping,
5 dusting, mopping, everything.

6 Q Did other hairstylists do those things?

7 A No.

8 Q And do you know how it worked in the other
9 clubs, the division of duties --

10 A I wish I did.

11 Q Okay. But you don't?

12 A But the answer is no.

13 Q Okay. And I think you told me that there was
14 some occasions that you were told to go home
15 before the end of your shift and then were
16 called back to work?

17 A Uh-huh.

18 Q Okay. And did that happen when you were a
19 commissioned hairstylist?

20 A No.

21 Q Okay. It happened when you were a shampoo girl?

22 A Yes.

23 Q Okay. And you would get sent home?

24 A But I did get sent home -- well, after they cut
25 my hours, they didn't have to send me home.

1 machine?

2 Q Okay. Did you receive any vacation or paid time
3 off while you were working for Life Time
4 Fitness? Did you get a certain number of days
5 of vacation a year, I don't know, two weeks,
6 three weeks, none?

7 A I remember I got majority of my PTO when I had
8 my surgery. When I came back from my surgery,
9 that's when they cut my hours to four.

10 Q Okay. When -- when were you out for surgery?

11 A That was 2011, October.

12 Q October of '11?

13 A Uh-huh.

14 Q And how long were you out of work?

15 A I was out I think possibly five to six weeks --
16 four to -- I would say four to six weeks.

17 Q Okay.

18 A And also I was told -- I had like over 50 hours
19 of PTO and I was told I could not use them.
20 That's when the letter -- when I told you about
21 the letter from Mark Savage that said as of
22 January 31st --

23 Q About --

24 A -- about PTO.

25 Q -- COBRA I thought you said?

1 Q All right. While you were employed by Life Time
2 Fitness on an hourly basis, a noncommission
3 basis, did you punch in to work each day when
4 you came to work?

5 A Yes.

6 Q Okay. And how would you do that? Did you enter
7 an employee ID number?

8 A Yes.

9 Q Okay. You didn't do a fingerprint swipe or
10 anything?

11 A No.

12 Q Okay. And when you were leaving at the end of
13 the day, did you punch out each day when you
14 were employed on an hourly basis?

15 A Yes. My recollection, yes.

16 Q Okay.

17 A And for lunch, too, in and out punch.

18 Q Okay. And you'd punch in and out for lunch as
19 well?

20 A Yes.

21 Q Okay. Do you know how the other -- do you know
22 how stylists handled reporting in and reporting
23 out? Do you know whether other stylists would
24 punch in or punch out?

25 A I know they were confused about punching in and

1 correct?

2 A Yes, because as a resource, once I -- I was very
3 in the dark when I transitioned over, so I would
4 look to my peers.

5 Q And your peers being the other commissioned
6 hairstylists?

7 A Yes.

8 Q Okay. And they had told you that they weren't
9 sure whether they needed to punch in or punch
10 out?

11 A Yes.

12 Q Okay. Once you were a commissioned hairstylist,
13 did anyone ever tell you that you needed to
14 punch in and punch out, that it was required?

15 A Like I stated earlier, it was like it didn't
16 matter if you did or not because you're
17 commission. So it was like you get paid for
18 your work. Whatever you do, that's what you
19 get.

20 Q Okay. Did anyone ever show you a document or a
21 policy that said it didn't matter if you punched
22 in or punched out when you were a commissioned
23 salesperson?

24 A No, because anytime you asked a question -- what
25 I would say, in my opinion, when I tried to get

Case 4:12-cv-02726 Document 23-1 Filed in TXSD on 11/15/12 Page 1 of 1

**CONSENT TO BECOME A PARTY PLAINTIFF TO
LIFETIME FITNESS FLSA LAWSUIT**

Name: Hampton, Rosalind

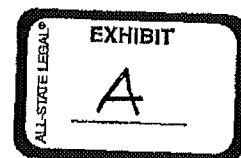
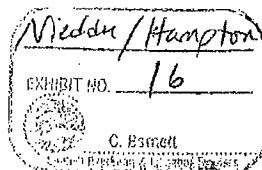
1. I consent and agree to pursue my claims of unpaid overtime and/or minimum wage through the lawsuit filed against my employer.
2. I understand that this lawsuit is brought under the Fair Labor Standards Act. I hereby consent, agree and opt-in to become a plaintiff herein and be bound by any judgment by the Court or any settlement of this action.
3. I intend to pursue my claim individually, unless and until the court certifies this case as a collective or class action. I agree to serve as the class representative if the court approves. If someone else serves as the class representative, then I designate the class representatives as my agents to make decisions on my behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with the plaintiffs' counsel concerning attorney's fees and costs, and all other matters pertaining to this lawsuit.
4. In the event the case is certified and then decertified, I authorize Plaintiffs' counsel to use this Consent Form to re-file my claims in a separate or related action against my employer.

(Signature)

Rosalind Hampton

(Date Signed)

11/15/2012





New Hire / Rehire Form

HIRE DATE: 5/13/2010 CLUB NAME: HCC

TEAM MEMBER INFORMATION:

New Hire: ☒ Rehire: ☐ (with HR Approval)

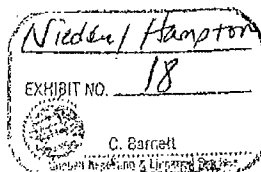
PLEASE PRINT CLEARLY

SOCIAL SECURITY #: RedactedBIRTHDATE: 11/04/70LEGAL NAME: Rosalind L. Hampton
(First) (MI) (Last)GENDER: M or F (circle one) F MARITAL STATUS: Single CURRENT LTF MEMBER (Y or N): N/AADDRESS: 5900 North Braeswood Blvd #227 Houston, TX 77074
(Street Name and #) (City) (State and Zip code)HOME PHONE #: 713-771-6999 E MAIL ADDRESS: N/AEMERGENCY CONTACT: Dorothy Hampton RELATIONSHIP: Mother PHONE #: (601) 278-9254
(601) 371-0937

JOB INFORMATION:

FULL TIME: ☒ PART TIME: ☐ REQUESTED PHONE EXTENSION: _____JOB TITLE: Stylist - Apprentice DEPARTMENT: Lif. SprHOURLY RATE: \$ 11 - SALARY: \$ _____ TARGET INCENTIVE: \$ _____HIRING MANAGER: [Signature] Francisco Puy
(Print Full Name as It Appears in MMS)

SIGNATURES AND APPROVALS:

[Signature] Date: 5/13/2010
1st Level Management_____
2nd Level Management Date_____
Recruiting Manager (Dept. Head and Above) Date_____
Compensation Manager (Dept. Head and Above and Exceptions) DateHR Use -- Team Member New Hire #: 95406 HRIS Coordinator Initials: JJRECEIVED
6/10/10

Confidential

LTF00000721

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF TEXAS
 HOUSTON DIVISION

PIER NIEDDU, on Behalf of Himself
 and Others Similarly Situated

Plaintiff,

V.

LIFETIME FITNESS, INC., et al.

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:12-CV-02726

JURY TRIAL DEMANDED

PLAINTIFF'S NOTICE OF FRCP 30(b)(6)
 CORPORATE REPRESENTATIVE DEPOSITION
 TO DEFENDANT LIFETIME FITNESS, INC.

TO: Defendant LIFETIME FITNESS, INC., through its counsel of record, Douglas Christensen of DORSEY & WHITNEY LLP, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402-1498.

Pursuant to FRCP 30(b)(6), Plaintiff hereby notices the deposition of the person or persons most knowledgeable of the following topics:

1. The number of hair stylists employed by Lifetime Fitness nationwide;
2. All nationwide locations at which Lifetime Fitness hair stylists work;
3. The general job duties performed by Lifetime Fitness hair stylists nationwide;
4. Lifetime Fitness's commission pay system for hair stylists nationwide, including commissions paid for both services and retail, tips received, and deductions including "shop charges";

5. The system(s) in place, if any, to comply with the Fair Labor Standards Act for commission paid hairstylists, including how long it has been in place and what changes have been made to it, if any, during the last five years;
6. Scheduling of hair stylists' work hours and the system in place for the reporting of the hair stylists' hours nationwide;
7. Paperwork that is created and maintained by Lifetime Fitness related to the hair stylists' commissions earned and paid for services and retail provided, their compensation, generally, and hours worked;
8. Lifetime Fitness's policy on paying minimum wage and overtime to its hair stylists;
9. To the extent Lifetime Fitness raises the affirmative defense of good faith, the witness should have detailed knowledge regarding Defendants' efforts to comply with the Fair Labor Standards Act;
10. Lifetime Fitness's general practices and policies on retaining payroll records such as time sheets and pay checks; and
11. Lifetime Fitness's denials and admissions to the averments in Plaintiff's Complaint, including any amendments, and responses and objections to Plaintiff's discovery requests.

The 30(b)(6) deposition will take place on March 21, 2013 beginning at 9:00 a.m. at the offices of Dorsey & Whitney LLP, Suite 1500, 50 South Sixth Street, Minneapolis, Minnesota 55402 and will continue from day to day until complete. The deposition will be recorded by a certified Shorthand reporter and may be videotaped.

You are welcome to examine the witness.

Respectfully submitted,

SHELLIST LAZARZ SLOBIN, LLP

By: /s/ Martin A. Shellist

Martin A. Shellist
Texas Bar No.: 00786487
Federal Bar No: 16456
Email: mshellist@eeoc.net
Ricardo J. Prieto
Texas Bar No.: 24062947
Federal Bar No: 1001658
E-mail: rprieto@eeoc.net
11 Greenway, Suite 1515
Houston, TX 77406
Telephone: (713) 621-2277
Facsimile: (713) 621-0993

ATTORNEYS FOR PLAINTIFF
& CLASS MEMBERS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on all opposing parties pursuant to the Federal Rules of Civil Procedure on March 6, 2013 via the following.

Via Facsimile: (612) 486-9191 and Via Email:
clark.marilyn@dorsey.com and christensen.doug@dorsey.com

Douglas Christensen &
Marilyn Clark
DORSEY & WHITNEY LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498
ATTORNEYS FOR DEFENDANTS

/s/ Ricardo J. Prieto
Ricardo J. Prieto

overtime pay to an employee for all hours over forty (40) hours per week that the employee works, unless that employee is properly classified as "exempt" from the overtime provisions of the FLSA. The FLSA provides that to qualify for exempt status, commissioned employees' earnings for a given pay period must equal at least one and a half times the applicable minimum wage based on the number of hours worked. The Named Plaintiff in this lawsuit claims that LIFE TIME FITNESS inappropriately compensated him under this exemption such that his earnings for a given pay period were less than at least one and a half times the applicable minimum wage based on the number of hours worked.

The Named Plaintiff brought this lawsuit in the United States District Court for the Southern District of Texas, Houston Division. The Named Plaintiff is suing to recover unpaid compensation for the period after September 11, 2009. This lawsuit is currently in the early pretrial stage.

LIFE TIME FITNESS has denied the Named Plaintiff's allegations that it engaged in this or any other inappropriate practice under the FLSA. Further, LIFE TIME FITNESS maintains that it exercised good faith in its application of the FLSA to its employees.

III. Who May Participate In This Lawsuit?

The Named Plaintiff seeks to sue on behalf of himself and also on behalf of other employees with whom he is similarly situated. Specifically, the Named Plaintiff seeks to sue on behalf of any and all LIFE TIME FITNESS hair stylists paid on commission (and not paid an hourly wage), who, at any time between September 11, 2009, and the present have not been paid earnings for a given pay period sufficient to equal at least one and a half times the applicable minimum wage based on the number of hours worked. Such individuals are Potential Members of the Collective Action.

This Notice is only for the purpose of determining the identity of those persons who wish to be involved in this case and has no other purpose. Your right to participate in this lawsuit may depend upon a later decision by the United States District Court that you and the Named Plaintiff actually are "similarly situated."

IV. How Do I Participate In This Lawsuit?

If you fit the definition set forth in Paragraph III above, you may choose to participate in this lawsuit. Enclosed with this Notice you will find a "Consent to Become a Party Plaintiff" form. If you choose to join this lawsuit, and thus participate in any recovery that may result from this lawsuit, you may join this lawsuit (that is, you may "opt in") by mailing, in the addressed and postage paid envelope enclosed for your convenience, the "Consent to Become a Party Plaintiff" form to the Clerk of the United States Court of the Southern District of Texas ("Clerk of Court") at the following address: David J. Bradley, Clerk of the United States Court of the Southern District of Texas, Houston Division, P.O. Box 61010, Houston, TX 77208.

The form must be received by the Clerk of Court before 4:30 p.m. on **[30 days from date of mailing]**. Please note that regardless of when the form is mailed, it must be received by the Clerk of Court on or before the date indicated above.

V. What Effect Does Joining This Lawsuit Have On My Legal Rights?

If you choose to join in the suit, you will be bound by the Judgment of the Court, whether it is favorable or unfavorable. You also will be bound by, and will be given your appropriate share of, any settlement that may be reached on behalf of the members of the collective action.

You will not be required to pay attorneys' fees directly. The attorneys for the members of the collective action are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fees chargeable to you. If there is a recovery, the attorneys for the members of the collective action will receive a part of any settlement obtained or money judgment entered in favor of all members of the collective action.

If you choose to join in the suit, you will not be required to pay any court costs and fees directly. The attorneys for the members of the collective action have agreed to pay for all court costs and fees incurred by the members of the collective action, including costs and fees that may be assessed against the members of the collective action if LIFE TIME FITNESS prevails in this lawsuit.

By joining this lawsuit, you designate the Named Plaintiff as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with the Named Plaintiff's counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the Named Plaintiff will be binding on you if you join this lawsuit.

While this suit is proceeding, you may be required to respond to written questions, sit for depositions and/or testify in court.

Federal law prohibits LIFE TIME FITNESS from discharging or in any other manner discriminating against or disciplining you because you have exercised your rights under the FLSA.

VI. What Effect Does Not Joining This Lawsuit Have On My Legal Rights?

If you choose not to join this suit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable to the members of the collective action. If you choose not to join this lawsuit, you are free to file your own lawsuit, subject to any defenses that might be asserted. The pendency of this suit will not stop the running of the statute of limitations as to any claims you might have until you opt into it or file your own lawsuit.

VII. Who Are The Attorneys For The Members Of The Collective Action?

If you choose to join this suit, your interests will be represented by the Named Plaintiff through his attorneys, as counsel for the members of the collective action. Counsel for the members of the collective action are: Martin A. Shellist, Esq. and Ricardo J. Prieto, Esq., Shellist Lazarz Slobin LLP, 11 Greenway Plaza, Ste. 1515, Houston, TX 77006, Tel. (713) 621-2277.

Further information about this Notice or questions concerning this lawsuit may be obtained by writing or telephoning the Named Plaintiff's counsel at the address and telephone number stated above.

VIII. Who Are The Attorneys For LIFE TIME FITNESS?

The attorneys for the Defendant LIFE TIME FITNESS are Douglas R. Christensen, Esq., Marilyn Clark, Esq., and Sarabeth Ackerman, Esq., Dorsey & Whitney LLP, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402-1498, and Scott M. Nelson, Esq. and Emily Harbison, Esq., Baker & McKenzie LLP, 711 Louisiana, Ste. 3400, Houston, TX 77002.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PIER NIEDDU, on Behalf of Himself
and Others Similarly Situated,
Plaintiff,

VS.

LIFE TIME FITNESS, INC., LTF CLUB
MANAGEMENT CO., LLC,
and LTF CLUB OPERATIONS CO.,
INC.,
Defendants.

CIVIL ACTION NO. 4:12-cv-02726

CONSENT TO BECOME A PARTY PLAINTIFF

By my signature below, I represent to the Court that I meet the definition contained in Paragraph III of the accompanying Notice of Pendency of FLSA Class Action describing “Potential Members of the Collective Action.”

I hereby authorize the filing and prosecution of the above-styled FLSA action in my name. Further, I designate the Named Plaintiff as my agent to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with the Named Plaintiff's counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

SIGNATURE (Sign your name)

(Print your name)

(Street Address)

(City, State, Zip)

(Telephone number)

(Social Security number)

Please return this form on or before 4:30 p.m. on [30 days from date of mailing] to:

Clerk of the United States Court of the Southern District of Texas, Houston Division
David J. Bradley, P.O. Box 61010, Houston, TX 77208